

AN ORDINANCE TO AMEND, CHAPTER 21, ARTICLE III OF THE CODE OF
ORDINANCES SO AS TO PROHIBIT SCHOOL BUS DRIVERS FROM USING
MOBILE TELEPHONES WHILE TRANSPORTING CHILDREN

WHEREAS, The State of Tennessee currently has in effect Tennessee Code Annotated 55-8-192 which prohibits the driver of a school bus on any highway from using a hand held mobile telephone while such vehicle is in motion and such vehicle is transporting children; and

WHEREAS, Tennessee Code Annotated 16-18-302 (a)(1-2) recognizes and authorizes a municipal court to possess jurisdiction to enforce any municipal law or ordinance that mirrors, substantially duplicates or incorporates by cross-reference the language of a state criminal statute, if and only if the state criminal statute mirrored, duplicated or cross-referenced is a Class C misdemeanor and the maximum penalty prescribed by municipal law or ordinance is a civil fine not in excess of fifty dollars (\$50.00); and

WHEREAS, Tennessee Code Annotated 55-8-192 (c) provides that violation of Tennessee Code Annotated 55-8-192 is a Class C misdemeanor; and

WHEREAS, the City Council of the City of Memphis intends to exercise its authority to enact new traffic ordinances.

SECTION 1. NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF MEMPHIS, that Chapter 21, Article III is hereby amended to create a new Section 21-134.4 to read as follows:

Sec. 21-134.4. **School buses; hand held mobile telephones.**

(a) No driver shall operate a school bus on any city roads or state highways while using a hand held mobile telephone while such vehicle is in motion and such vehicle is transporting children.

(b) This does not apply to mobile telephones or two-way radio communications made to and from a central dispatch, school transportation department or its equivalent.

(c) For the purposes of this section, unless the context otherwise requires, "mobile telephone" means a cellular, analog, wireless or digital telephone.

(d) For the purposes of this section, "school bus" means every motor vehicle owned by a public or governmental agency and operated for the transportation of children to or from school or privately owned and operated for compensation for the transportation of children to or from school.

(e) A violation of this section is a Class C misdemeanor, subject to a 50.00 fine.

(f) It is an affirmative defense to prosecution under this section, which must be proven by a preponderance of the evidence, that the driver's use of a mobile telephone was necessitated by a bona fide emergency.

SECTION 2. BE IT FURTHER ORDAINED, that the provisions of this Ordinance are hereby severable. If any of these sections, provisions, sentences, clauses, phrases, or parts are held unconstitutional or void, the remainder of this Ordinance shall continue in full force and effect.

SECTION 3. BE IT FURTHER ORDAINED BY THE COUNCIL OF THE CITY OF MEMPHIS, that this Ordinance shall take effect from and after the date it shall have been passed by the Council, signed by the Chairman of the Council, certified and delivered to the Office of Mayor in writing by the comptroller and become effective as otherwise provided by law.

Myron Lowery
Council Chairman

Attest:
Patrice Thomas, Comptroller

SUMMARY SHEET

I. DESCRIPTION OF ITEM

Adoption of this ordinance will amend Chapter 21, Article III of the City of Memphis Code of Ordinances to create Section 21-134.3, an ordinance to require motor vehicle operators to give three feet clearance when passing bicycles on city streets. This ordinance will make such violation a Class C misdemeanor, subject to a 50.00 fine. Once approved, the final version will be provided to the publisher for the purpose of amending the Code.

II. SOURCE AND AMOUNT OF FUNDING

Not applicable.

III. CONTRACT ITEMS

Not applicable.

IV. ADDITIONAL INFORMATION RELEVANT TO APPROVAL OF THIS ITEM

This proposed ordinance is an adoption of Tennessee Code Annotated 55-10-416. Tennessee Code Annotated 16-18-302 (a)(1-2) recognizes and authorizes a municipal court to possess jurisdiction to enforce any municipal law or ordinance that mirrors, substantially duplicates or incorporates by cross-reference the language of a state criminal statute, if and only if the state criminal statute mirrored, duplicated or cross-referenced is a Class C misdemeanor and the maximum penalty prescribed by municipal law or ordinance is a civil fine not in excess of fifty dollars (\$50.00).